

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

DANIEL GOLDEN and TRACY LOCKE,

Plaintiffs,

v.

NEW JERSEY INSTITUTE OF
TECHNOLOGY and CLARA WILLIAMS, in
her capacity as Custodian of Records for the
New Jersey Institute of Technology,

*Defendants/Third-Party
Plaintiffs/Third-Party Defendants,*

v.

FEDERAL BUREAU OF INVESTIGATION,

*Third-Party Defendant/
Third-Party Plaintiff.*

HON. MADELINE C. ARLEO

Civ Action No.
2:15-cv-08559-MCA-LDW

PARTIES JOINT STATUS REPORT

JOINT STATUS REPORT

Plaintiffs Daniel Golden and Tracy Locke (collectively, “Plaintiffs”), defendants/third-party plaintiffs/third-party defendants the New Jersey Institute of Technology and Clara Williams, in her capacity as its Custodian of Records (collectively, “NJIT”), and third-party defendant/third-party plaintiff Federal Bureau of Investigation (“FBI”) submit this joint status report pursuant to the Court’s March 7, 2016 Order (ECF No. 26).

Since the filing of the parties’ status report of February 29, 2016 (ECF No. 24), the FBI has reviewed 2,190 pages of documents identified by NJIT as responsive to Plaintiffs’ New Jersey Open Public Records Act, N.J.S.A. 47:A-1 *et seq.*, (“OPRA”)

requests.¹ In reviewing these documents, the FBI applied redactions to portions of the documents that it claims are exempt from disclosure under OPRA, the Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”), and the Privacy Act of 1974, 5 U.S.C. § 552a (“Privacy Act”). After applying those redactions, the FBI sent the documents back to NJIT, which in turn produced the redacted documents to Plaintiffs in accordance with FBI protocols for consultation requests.

In total the FBI provided 1,499 pages of documents to NJIT without applying any redactions, applied partial redactions to 379 pages of documents, and marked 296 pages of documents to be withheld in full (e.g. either because the FBI asserts control over the document or claims that the entire document is exempt from disclosure).² See FBI Counterclaim (ECF No. 23) ¶¶ 1; 29–38. NJIT then produced the documents and portions thereof that the FBI asserts are non-exempt to Plaintiffs without applying additional redactions.

Following these productions, the parties met and conferred on June 7, 2016. The FBI informed the parties that after a further cursory review of approximately 2,500 additional pages of the remaining documents not yet produced, the FBI will not be withholding them in their entirety as initially asserted. Rather, the parties agreed that the FBI would review these additional pages of documents at a rate of at least 500 pages per

¹ Plaintiffs’ OPRA requests, as they pertain to this litigation, seek “all e-mail communications since January 1, 2010, between the Federal Bureau of Investigation or its representatives using the email domains @ic.fbi.gov, @fbi.gov, or any other email address, and” certain individuals at NJIT. ECF No. 1, Ex. A (“Plaintiffs’ Complaint”) ¶¶ 1, 12, 18.

² The FBI referred 16 pages of documents to another federal agency for consultation.

month, withhold any pages or portions thereof that it asserts are exempt from disclosure, and return any non-exempt pages or portions to NJIT for production to Plaintiffs.

Therefore, the parties propose that the current stay remain in place until the FBI completes its review of these documents and any responsive, non-exempt ones are subsequently produced to Plaintiffs through NJIT. The FBI estimates that it will complete its review on or before October 31, 2016. Thereafter, the parties propose to meet and confer and submit another joint status report on or before November 15, 2016, updating the Court on the status of production and identifying whether any further issues remain in the case, including whether dispositive motions are necessary.

Dated: June 15, 2016

Respectfully submitted,

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